IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

WP(C).No. 28008 of 2004(H)

OS.54/2000 of PRL.SUB COURT,IRINJALAKUDA
.....

PETITIONER:

A.S.UMMER, ANDIYESHATH HOUSE,
KAIPPAMANGALAM, KODUNGALLUR.

BY ADV. SRI.JOHN K.GEORGE

RESPONDENTS:
----

1. **THE CATHOLIC SYRIAN BANK LTD.,**
   SREENARAYANAPURAM BRANCH, SREENARAYANAPURAM P.O.

2. **ABDUL AZIZ, S/O.PERUNDHARA MUHAMMED**
   KUNJI, PAPPINIVATTOM, P.O. KODUNGALLUR.

BY ADV. SRI.PETER THARAKAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) no.28008/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE PETITION WITH AFFIDAVIT 15.2.04.

EXT.P2:- COPY OF THE JUDGMENT IN OS. NO.308/02 DT. 15.3.03 IN OS. 308/02 DT. 15.3.03 IN THE COURT OF ADDITIONAL SUBORDINATE JUDGE, IRINJALAKUDA.

EXT.P3:- COPY OF THE PETITION WITH AFFIDAVIT DT. 22.6.04.

EXT.P4:- COPY OF THE CHALAN RECEIPT DT. 9.8.04.

EXT.P5:- COPY OF THE ORDER DT. 16.9.04.

/TRUE COPY/

P.A. TO JUDGE

tss

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = =

W.P.C. NO. 28008 OF 2004

= = = = = = = = = = = = = = =

Dated this the 16th day of July, 2007.

J U D G M E N T

This writ petition is preferred challenging the order of the learned Subordinate Judge, Irinjalakuda in E.A.1096/04. An application has been filed under Order 21 Rule 89 CPC to set aside the sale on deposit of the amount. Under Order 21 Rule 89 where any immovable property has been sold in execution of a decree any person claiming interest in the property is entitled to move the Court for setting aside the sale on the condition that he makes for payment to the purchaser, a sum equivalent to 5% of the purchase money and for payment to the decree holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered.

2. In this case the only amount equivalent to 5% of the purchase price has been deposited. It is also stated he has almost deposited the entire amount shown in the proclamation. The Court granted time for depositing the

balance amount and it was adjourned to 24.3.04. The order of the learned Sub Judge does not suffer from any infirmity and it is strictly in compliance with order 21 Rule 89 CPC. Therefore, the writ petition lacks merit and it is dismissed and it goes without saying that if the petitioner has got any other statutory remedy he is free to pursue it.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-